

Committee on the Judiciary
116th Congress
Resolution for Investigative Procedures
Offered by Chairman Jerrold Nadler

1 Whereas the Committee on the Judiciary beginning on
2 March 4, 2019 has issued multiple discovery requests to
3 individuals with potential information relevant to its
4 investigation “into the alleged obstruction of justice, public
5 corruption, and other abuses of power by President Trump, his
6 associates, and members of his Administration”;

7 Whereas Special Counsel Robert Mueller’s Report released
8 on April 18, 2019 found that the Russian government interfered
9 in the 2016 election in “sweeping and systematic fashion,” that
10 there were at least ten separate episodes of President Trump
11 using his official powers to thwart or attempt to thwart the
12 Special Counsel’s investigation, and recognized “that a federal
13 criminal accusation against a sitting President
14 would...potentially preempt constitutional processes for
15 addressing presidential misconduct” and the Special Counsel
16 subsequently confirmed his Report’s findings at a hearing before
17 the Committee on July 24, 2019;

18 Whereas, on May 8, 2019, the Committee recommended
19 the House of Representatives hold Attorney General William
20 Barr in contempt of Congress for refusing to comply with a duly
21 authorized subpoena issued in connection with the Committee’s
22 investigation to determine “whether any of the conduct
23 described in the Special Counsel’s Report warrants the
24 Committee in taking any further steps under Congress’ Article I

25 powers. That includes whether to approve articles of
26 impeachment with respect to the President or any other
27 Administration official, as well as the consideration of other
28 steps such as censure or issuing criminal, civil or administrative
29 referrals”;

30 Whereas, in passing H. Res. 430 on June 11, 2019, which
31 among other things provides that the chair of each standing and
32 permanent select committee, when authorized by the Bipartisan
33 Legal Advisory Group, retains the ability to initiate or intervene
34 in any judicial proceeding before a Federal court on behalf of
35 such committee, the House of Representatives affirmed that “in
36 connection with any judicial proceeding...the chair of any
37 standing or permanent select committee exercising authority
38 thereunder has any and all necessary authority under Article I of
39 the Constitution,” and the accompanying Committee on Rules
40 report stated that “[a]n example of a Committee being able to
41 use ‘all necessary authority under Article I of the Constitution’
42 is illustrated by the Judiciary Committee’s contempt report
43 which explained the purposes of its investigation...includes
44 whether to recommend ‘articles of impeachment with respect to
45 the President...’”;

46 Whereas H. Res. 430 authorized the Committee to petition
47 a court for the disclosure of information related to its subpoena
48 for the unredacted version of the Special Counsel’s Report and
49 related materials “pursuant to Federal Rule of Criminal
50 Procedure 6(e), including Rule 6(e)(3)(E) (providing that the
51 court may authorize disclosure of a grand-jury matter
52 ‘preliminarily to * * * a judicial proceeding’)”;

53 Whereas on July 10, 2019 the Committee authorized the
54 issuance of subpoenas based upon a memorandum explaining

55 that “[t]he Committee seeks grand jury information and intends
56 to conduct hearings with Mr. McGahn and other critical
57 witnesses testifying to determine whether the Committee should
58 recommend articles of impeachment against the President”;

59 Whereas the Committee has held a series of hearings to aid
60 Members in evaluating the seriousness and constitutional
61 significance of the President’s alleged misconduct as outlined in
62 the Special Counsel’s Report, including a hearing on July 12,
63 2019, where Chairman Nadler stated that “[w]ith regard to the
64 Committee’s responsibility to determine whether to recommend
65 articles of impeachment against the President, articles of
66 impeachment are under consideration as part of the Committee’s
67 investigation, although no final determination has been made”;

68 Whereas, on July 26, 2019, the Committee filed an
69 application with the U.S. District Court for the District of
70 Columbia seeking an order authorizing the release of certain
71 grand jury materials to the Committee related to the Special
72 Counsel’s Report to obtain “access to all the relevant facts and
73 consider whether to exercise its full Article I powers, including a
74 constitutional power of the utmost gravity—approval of articles
75 of impeachment,” and the Committee filed a lawsuit on August
76 7, 2019 seeking to enforce its subpoena for former White House
77 Counsel Donald F. McGahn, II, a key witness to President
78 Trump’s misconduct, to aid in assessing “whether to exercise its
79 Article I power to recommend articles of impeachment against
80 the President”;

81 Whereas on July 26, 2019 Chairman Nadler issued
82 procedures governing Member access to grand jury information
83 that may be obtained pursuant to the above described application
84 with the U.S. District Court for the District of Columbia;

85 Whereas in an August 22, 2019 letter requesting the chairs
86 of certain other committees to share information they have
87 obtained over the course of their oversight investigations,
88 Chairman Nadler noted “the Judiciary Committee’s authority
89 and intent to conduct an investigation to determine whether to
90 recommend articles of impeachment.” Now, therefore, be it

91 *Resolved*, that the Committee on the Judiciary states the
92 following procedures apply to the presentation of information in
93 connection with the Committee’s investigation to determine
94 whether to recommend articles of impeachment with respect to
95 President Donald J. Trump, subject to modification by the
96 Committee as it deems proper as the investigation proceeds.

97 1. The Chairman may designate a full committee or
98 subcommittee hearing as being for the purpose of the
99 presentation of information in connection with the
100 Committee’s investigation to determine whether to
101 recommend articles of impeachment with respect to
102 President Donald J. Trump.

103 2. If a witness is called to testify before the Committee at a
104 hearing designated under paragraph 1, Committee staff as
105 designated by the Chair and Ranking Member are permitted
106 to question a witness for an additional hour equally divided
107 between the Majority and Minority.

108 3. Information obtained pursuant to a letter request, subpoena,
109 deposition, transcribed interview, or interrogatory
110 pertaining to the Committee’s investigation to determine

111 whether to recommend articles of impeachment with
112 respect to President Donald J. Trump, as so designated by
113 the Chairman, shall be deemed received in executive
114 session unless and until otherwise determined by the
115 Chairman, after consultation with the Ranking Member.
116 Grand jury information obtained by the Committee shall be
117 deemed received in executive session pursuant to the
118 procedures issued by Chairman Nadler on July 26, 2019.
119 The Chairman, after consultation with the Ranking
120 Member, is authorized to determine whether other material
121 received by the Committee shall be deemed executive
122 session material. The Chairman, after consultation with the
123 Ranking Member, may issue additional procedures
124 governing access by other Non-Committee Members to
125 executive session materials, consistent with clause 2 (e)(2)
126 of House Rule XI.

- 127 4. The President's counsel may respond in writing to
128 information and testimony presented to the Committee in
129 open session. The Chairman, after consultation with the
130 Ranking Member, may invite the President's counsel to
131 review and respond in writing to executive session
132 materials.